



# Delaware Nutrient Management



## The Delaware Nutrient Management Commission Rules and Regulation Minutes of the Meeting Held November 6, 2006

### In attendance:

<i>Commission Members Present</i>	<i>Others Present</i>
E. Lewandowski, Chairman	K. Bunting-Howarth
D. Baker	S. Kepfer
C. Larimore	B. Coleman
A. Johnson	S. Hollenbeck
T. Keen	P. Diehl
B. Vanderwende	
<i>Commission Members Absent</i>	B. O'Neill
<i>none</i>	
<i>Ex-officios Present</i>	
W. Rohrer	

*This meeting was properly notified and posted as required by law.*

### Minutes:

#### Call to Order/Welcome

Chairman Ed Lewandowski called the meeting to order at 5:00 p.m. and welcomed those in attendance.

#### Approval of Minutes:

**B. Vanderwende motioned to approve the July 19, 2006 Rules and Regulations Subcommittee meeting minutes. Motion seconded by C. Larimore and carried unanimously.**

#### Discussion and Action Items:

*Prior to any discussion, the meeting was suspended at 5:03 pm in order to allow Commissioners time to read Transcript of 10/27/06 Public Hearing (which was received by Nutrient Management 11/06/06).*

**The meeting reconvened 5:33 pm, and was recalled to order by E. Lewandowski.**

*Review and act on public comment from Nutrient Management Regulations:* B. Rohrer summarized the Transcript contents from all three Public Hearings, noting pertinent public comment:

09/26/06      pp.3-4 Public was concerned about misapplication to impervious surfaces and requested clarification. Also requested definition of frozen ground.  
                 pp. 4-5 Public felt that the negligent application language was ambiguous, requested clarification. Also requested definition of frozen ground.  
                 pp. 5-11 Public requested misapplication definition and requested that December 1 cutoff date be changed to December 15.

09/28/06      NO PUBLIC COMMENT

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10/27/06 pp. 11-13 Public felt that there are too many agriculture regulations, requested definition of frozen ground.  
pp. 13-14 General discussion.  
pp. 17-18 Not enough notice given for meetings; not thorough. Public felt that DNMC “was trying to get something passed without our knowledge...”  
pp. 24-26 General discussion including regulation should be specific to lawn care. Also, weather is determiner for (fertilizer) application, not date. February 15 should be changed to February 1.  
pp. 27-28 B. Rohrer explained that some language would be looked at that would “exempt anybody as long as they’re operating under the current Nutrient Management plan...”  
pp. 31-32 General discussion regarding use of urea as ice-melt. B. Rohrer pointed out that this would be a good agenda topic for further discussion.  
pp. 39-40 Public recommendation that there be a standard calendar date to modify regulations.

*Letter from Kevin Donnelly, DNREC* was provided to each Subcommittee member. The comments made were discussed and were taken into account while amendments to regulations were considered.

*Statement sent via email by Bill Angstadt* was read by B. Rohrer.

General discussion followed. The Subcommittee felt that the Public Hearings were another way to educate the agricultural community. It was noted that the Subcommittee did not rush into regulation: several meetings have taken place, and they have looked at scientific data as well. There was further discussion about the definition of “frozen” as it relates to frozen ground.

**D. Baker motioned to strike the word “predominantly” from the definition of “frozen” ground.**  
**C. Larimore seconded the motion, which carried unanimously.**

Discussion occurred to strike “24 hour period or greater” from Section 6.1.

**D. Baker motioned to adopt change to 6.1.2 (strike “24 hour period or greater”).**  
**C. Larimore seconded the motion, which carried unanimously.**

Discussion turned to the use of “organic” and “inorganic” fertilizers. The Subcommittee defined “fertilizer” as follows: means any synthetic or carbon based substance that is added to the soil to supply one or more plant nutrients.

**B. Vanderwende motioned to change language of 6.2.**  
**D. Baker seconded the motion.**

**D. Baker called point of order and withdrew motion because “fertilizer” definition is not yet in place.**  
**B. Vanderwende seconded the withdrawal of motion.**

B. Rohrer reread the newly created definition of fertilizer.  
**B. Vanderwende motioned to adopt definition of fertilizer.**  
**A. Johnson seconded the motion, which carried unanimously.**

**D. Baker motioned to change the language of 6.1.1 to read “fertilizer” (strike commercial inorganic).**  
**B. Vanderwende seconded the motion, which carried unanimously.**

The Subcommittee discussed the merits of Sections 6.2 and 6.3. There are identifiable loopholes in the way the regulations are presently written. New language was written:

*An exception is hereby established for the application of Nitrogen provided the rate does not exceed 1 lb./1,000 ft<sup>2</sup> or 43 lbs/acre and provided the following conditions exist:*

*6.2.1 The crop receiving fertilizer is actively growing; and*

*6.2.2 The operation is managed under a current nutrient management plan.*

**B. Vanderwende motioned to adopt language.**  
**D. Baker seconded the motion, which carried unanimously.**

**D. Baker motioned to strike Section 6.3 in its entirety.**

**C. Larimore seconded the motion, which carried unanimously.**

**C. Larimore motioned to strike definitions of organic and inorganic fertilizers.**

**D. Baker seconded the motion, which carried unanimously.**

**D. Baker motioned final approval to bring regulations before Full Commission.**

**B. Vanderwende seconded the motion, which carried unanimously.**

(C. Larimore was not present at time of motion)

**Public Comments:** NONE

**Next Meeting:** NONE

**Adjournment:**

Chairman Lewandowski adjourned the meeting at 7:20 p.m.

Approved,

Ed Lewandowski, Chair  
Rules & Regulations Subcommittee

BRR/psd